



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Maintenance and Modernity: The Challenge of Redefining Dependence in Hindu Law

Kirti^a

^aAmity University, Haryana, India

Received 31 October 2025; *Accepted* 01 December 2025; *Published* 05 December 2025

Maintenance under Hindu law represents a vital aspect of family justice, embodying both a moral obligation and a legal right. This concept, rooted in the principles of duty, sustenance, and protection, seeks to ensure that dependents such as wives, children, parents, and widowed daughters-in-law are not left destitute. The law of maintenance has evolved through judicial interpretation in response to changing societal circumstances. It is mainly codified under the Hindu Adoption and Maintenance Act, 1956, and complemented by the provisions in the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and the Protection of Women from Domestic Violence Act, 2005. This paper critically analyses the Scope and Limitations of maintenance under Hindu law by examining statutory provisions, judicial interpretations, and practical challenges in enforcement. Judicial decisions have progressively widened the Scope of maintenance by including not only wives but Children, Parents and widowed daughters-in-law. However, issues such as gender bias, inconsistent quantum determination, procedural delays, and poor enforcement mechanisms continue to limit its effectiveness. The study focuses on gender justice, arguing that Hindu law must evolve from a notion of dependency to a recognition of entitlement, grounded in the principles of social justice and human dignity.

Keywords: *maintenance, hindu law, gender justice, equality, dignity.*

INTRODUCTION

According to Justice Subba Rao, “personal law applies to those who profess a particular religion.”¹ Maintenance is considered a moral and legal duty of a person towards their dependents as per Hindu law. It ensures that wife, children, aged parents and widowed daughters-in-law are not left destitute. The support of maintenance covers essential needs such as food, clothing, shelter, education, and medical expenses.² The purpose of maintenance is not merely to ensure survival but to help maintain the claimant’s existing standard of living. The institution of maintenance under Hindu law derives from the old customs and principles that those who have means must support those who are dependent on them. Traditionally, this duty was rooted in the structure of Hindu society, where the husband or male head of the family bears the responsibility of maintaining his wife, children, aged parents and other dependents. Maintenance is not just a moral obligation but in 20th century it has been shifted to legal right as codified under the Hindu Adoption and Maintenance Act, 1956,³ the Hindu Marriage Act, 1955,⁴ the Protection of Women from Domestic Violence Act, 2005⁵ and the Code of Criminal Procedure 1973⁶ which has now been replaced with Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.⁷ While the Hindu law of maintenance aims to secure Social justice and family welfare, its scope and enforcement are still limited by gender biases, procedural hurdles, and evolving societal norms.

CONCEPT AND LEGAL BASIS OF MAINTENANCE

The concept of maintenance under Hindu Law reflects the Moral and social duty of a person to support those who are dependent on them. The ancient Hindu texts, such as the Manusmriti and Dharmashastras, are the roots of this concept, but it is now codified in different statutes with legal obligations. It is not merely about physical sustenance but about ensuring a life with dignity and social respect.

¹ Prof. G C V Subba Rao, *Family Law in India* (Narender Gogia & Company 2021)

² Anjali and Dr. Madhu Bala, ‘Historical Perspectives and Parameter Of Maintenance Under Hindu Law in India’ (2025) 31(6) Metallurgical and Materials Engineering <<https://doi.org/10.63278/mme.vi.1785>> accessed 28 October 2025

³ Hindu Adoptions and Maintenance Act 1956

⁴ Hindu Marriage Act 1955

⁵ Protection of Women from Domestic Violence Act 2005

⁶ Code of Criminal Procedure 1973, s 125

⁷ Bhartiya Nyaya Suraksha Sanhita 2023

Maintenance is defined under **Section 3(b) of HAMA, 1956**⁸ as ‘Maintenance’ includes:

- (i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment;
- (ii) in the case of an unmarried daughter, also the reasonable expenses of and incident to her marriage;

Categories of individuals entitled to get maintenance as per HAMA 1956 are –

Wife: Entitled under Section 18⁹.

Widowed daughter-in-law: Under Section 19¹⁰.

Children and aged or infirm parents: Under Section 20¹¹.

Dependents: Under Sections 21 and 22¹².

These provisions reflect the legal attempt to balance family responsibility with social justice. Moreover, it is not just a statutory right but also flows from constitutional values given in Article 14,15(3), and 21 of the Constitution of India,¹³ which collectively guarantees some basic rights to weaker section of society namely women and children as ‘Equality before law and equal protection of law’, protection of women and children, and the right to live with dignity.

The purpose of these rights is to provide a life of dignity, social respect, and to provide the dependents with sustenance and basic livelihood. It is intended to provide financial support to those unable to maintain themselves, especially after a separation or divorce, and to help them cover legal expenses during litigation. It protects vulnerable family members from destitution.

⁸ Hindu Adoptions and Maintenance Act 1956, s 3(b)

⁹ Hindu Adoptions and Maintenance Act 1956, s 18

¹⁰ Hindu Adoptions and Maintenance Act 1956, s 19

¹¹ Hindu Adoptions and Maintenance Act 1956, s 20

¹² Hindu Adoptions and Maintenance Act 1956, ss 21-22

¹³ The Constitution of India 1950, arts 14, 15(3) and 21

CHANGING SCOPE OF MAINTENANCE UNDER HINDU LAW

The scope of maintenance under Hindu Law extends beyond mere subsistence- it embodies the social and moral obligation of family members to support each other. The scope of maintenance under Hindu law has evolved with various judicial interpretations. Before codification, the duty of maintenance was derived from religious texts and later enforced through judicial interpretations. Courts played a major role in converting this moral obligation into a legally enforceable right. The scope of maintenance includes maintenance during the lifetime, post-separation, and even after the dissolution of the marriage. This scope expanded through various landmark judgements, such as:

In the case of *K. Kunhikannan v N.V. Malu*,¹⁴ the right to get separate residence and maintenance was given to the wife.

In the case of *Badshah v Urmila Badshah Godse*,¹⁵ a liberal interpretation was adopted to protect women in de facto relationships.

In the case of *Mohd Ahmed Khan v Shah Bano Begum*,¹⁶ this case dealt with clearly clarifying the scope of Maintenance as per Section 125 of CrPC,¹⁷ and proved to be a milestone, specifically in the struggle for the rights of Muslim women.

Due to modernisation, now women are literate, strong, and highly progressive in each sector of society and are competent to fulfil their basic needs for sustenance. The concept of maintenance is misused by working women who earn more than their husbands and are financially independent. The basic structure of maintenance is to provide a remedy to the dependants who are incompetent to fulfil their basic needs and maintain a decent social life with dignity, which has been misused by women these days. Some judicial interpretations where decisions against women were given by the Courts are:

¹⁴ *Kaithakulangara Kunhikannan v Nellatham Veettil Malu* (1973) SCC OnLine Ker 29

¹⁵ *Badshah v Urmila Badshah Godse & Anr* (2014) 1 SCC 188

¹⁶ *Mohd Ahmed Khan v Shah Bano Begum & Ors* (1985) 2 SCC 556

¹⁷ Code of Criminal Procedure 1973, s 125

In the case of *Rani Sethi v Sunil Sethi*,¹⁸ the Delhi High Court ordered the wife to pay maintenance to her Husband of Rs. 20,000 and Rs. 10,000 as litigation expenses. Further, a Zen car was ordered to be given for the use of the petitioner.¹⁹

In the case of *Kumaresan v Ashwati*,²⁰ the Madras High Court took the fact into consideration that if the wife is working, then the husband need not maintain her. In this case, the Court took the view of Section 24 of the Hindu Marriage Act, 1955²¹, and as it states that the only condition required for the grant of maintenance pendente lite is that the party should not have a sufficient independent income source. If it is found that the applicant has sufficient income, no maintenance pendente lite can be granted to him/her.²²

The scope of maintenance is not limited to only a single statute, but provisions related to maintenance were given in various statutes, such as:

- Section 144 of Bharatiya Nagarik Suraksha Sanhita (BNSS).²³
- Article 39 of the Constitution of India.²⁴
- Section 18 of the Hindu Adoption and Maintenance Act.²⁵
- Sections 24 and 25 of the Hindu Marriage Act.²⁶
- Section 20 provides maintenance under the Protection of Women from Domestic Violence Act.²⁷

But these provisions come with some issues related to maintenance in live-in relationships, second wives, and children from void/ voidable marriages.

LIMITATIONS AND CHALLENGES

¹⁸ *Rani Sethi v Sunil Sethi* (2011) DLT 414

¹⁹ Pooja Kapur, 'Concept of Maintenance in Hindu Marriage Act, 1955' (*iPleaders*, 13 June 2019) <<https://blog.ipleaders.in/concept-of-maintenance-in-hindu-marriage-act-1955/>> accessed 27 October 2025

²⁰ *Kumaresan v Aswathi* (2002) 2 MLJ 760

²¹ Hindu Marriage Act 1955, s 24

²² Sarthak Kulshrestha and Oishika Banerji, 'Maintenance cases in favour of the husband' (*iPleaders*, 10 February 2022) <<https://blog.ipleaders.in/maintenance-cases-in-favour-of-the-husband/>> accessed 27 October 2025

²³ Bharatiya Nyaya Suraksha Sanhita 2023, s 144

²⁴ Constitution of India 1950, art 39

²⁵ Hindu Adoptions and Maintenance Act 1956, s 18

²⁶ Hindu Marriage Act 1955, ss 24 and 25

²⁷ Protection of Women from Domestic Violence Act 2005, s 20

Several deficiencies and loopholes in maintenance law may lead to inconsistent interpretations or hinder the effective enforcement of maintenance orders and laws:-

Gender Bias: Sometimes, it might be gender bias by assuming that only women need financial support or maintenance; therefore, sometimes judgments passed by the court may favour a particular gender, which results in bias or inequality.²⁸

Complex Proceedings: Lengthy and complicated procedures can delay the resolution of a maintenance dispute, and for that reason, the maintenance may be a time-consuming procedure, which causes delay.

Changes in the Circumstances: A Change in circumstances could involve loss of employment, remarriage, or other circumstances that affect the financial capacity of a spouse. Providing maintenance can be considered one of the major lacunae in maintenance law.

False Claim: False claim made by the husband or wife related to the amount of maintenance, assets, etc., can cause injustice in a trial.

Social Stigma and Litigation Failures: Women often hesitate to claim maintenance due to social pressure.

Quantum Determination: Lack of uniform guidelines leads to inconsistent awards.

Multiplicity and Legal Remedies: Overlapping jurisdictions under various statutes confuse and delay the proceedings.

The concept of maintenance came into force in ancient times when society was male-dominating, and 'Karta' ensures the fulfilment of basic needs of all the family members, and they depend on him. Now the circumstances have changed, and both genders are equally capable of being financially independent, so the law faces a lot of challenges due to changing circumstances and evolving as per the needs of the time. Maintenance is a spousal support, which one partner provides to another after a divorce or separation.

²⁸ Divya, 'MAINTENANCE LAW: LEGAL COMPLEXITIES AND SOLUTIONS' (2023) 9(6) International Journal of Advance Research and Innovative Ideas in Education (IJARIIE)
<https://ijariie.com/AdminUploadPdf/MAINTENANCE_LAW_LEGAL_COMPLEXITIES_AND_SOLUTIONS_ijariie22320.pdf?srsItd=AfmBOoqN03nqyQP9xsNCjZtA2VVUXgSdxZxbQt2JNS3O87yLuZD3cEdv>
accessed 27 October 2025

JUDICIAL APPROACH AND PROGRESSIVE INTERPRETATION

The judicial approach to maintenance has progressively evolved from a patriarchal concept of providing mere subsistence to an affirmation of social justice and human dignity. There is a big hand of the judiciary in such evolution by providing relevant landmark judgements to serve the best for society. Through these judicial interpretations, Indian Courts have expanded the scope of maintenance beyond statutory provisions to ensure economic equity for vulnerable individuals, including those in non-traditional relationships. Let us see some recent judicial interpretations regarding the concept of maintenance -

Recent guidelines by the Supreme Court of India:

The Supreme Court of India, in the year 2020, provided several guidelines to regulate maintenance payments in Matrimonial cases while delivering the Judgement of *Rajnish v Neha*.²⁹ In this case, the family court has ordered Rajnish, the appellant, to provide interim maintenance to the respondent, Neha. The appellant then approached the Supreme Court and contended that he was not in a position to pay for maintenance. The Supreme Court said:

- In India, there are various legal provisions related to maintenance, so the person filing the claim for maintenance shall mention whether he/she have been granted maintenance before in another proceeding.
- The maintenance shall be granted from the date the application is filed and not earlier than that.
- Fixation of maintenance and alimony will depend on the financial status of the spouse, as mentioned in section 25(1) of HMA.³⁰
- The duration of marriage is also considered, to avoid fraud with the husband if the wife marries for money and aims to get high alimony.

In the case of *Loyola Selva Kumar v M. Sharon Nisha*,³¹ it was established for the first time by the Madras High Court that the second wife and family can seek maintenance under section 125 of the CrPC³² even if not recognised as the legal wife.

²⁹ *Rajnish v Neha & Anr* (2021) 2 SCC 324

³⁰ Hindu Marriage Act 1955, s 25(1)

³¹ *Loyola Selva Kumar v M Sharon Nisha & Anr* (2023) SCC OnLine Mad 4523

³² Code of Criminal Procedure 1973, s 125

SUGGESTIONS FOR REFORMS

The concept of maintenance under Hindu law, as encapsulated in Section 25 of the Hindu Marriage Act 1955 (HMA),³³ was originally designed to ensure post-marital financial security and to uphold the principle of sustenance for the dependent spouse. However, in the context of modernity, this provision requires substantial reform to reflect evolving notions of equality, gender neutrality, and economic independence.

First, the statutory language of Section 25 should be amended to explicitly recognise maintenance as a gender-neutral right. Despite judicial interpretations affirming that both spouses may claim maintenance, societal and procedural biases often disadvantage husbands in genuine need. The Supreme Court in *Rajnesh v Neha*³⁴ emphasised the importance of a uniform and just approach to maintenance, calling for standardised guidelines to prevent arbitrariness. Legislative reform should codify such principles to ensure consistent application across jurisdictions.

Secondly, subsection (2), which allows variation or rescission of maintenance orders upon a change in circumstances, requires a clearer legislative definition. While the provision accommodates legitimate financial hardship, it can be misused to evade responsibility or harass the other spouse. Courts should be mandated to assess such claims through a structured evidentiary process, reducing judicial discretion and ensuring transparency.

Finally, subsection (3), which terminates maintenance upon remarriage or sexual relations of the recipient, must be revisited in light of constitutional morality and individual autonomy. Its current form reflects patriarchal assumptions that equate female chastity with entitlement to support. Drawing from the equality guarantees under Articles 14 and 15 of the Constitution of India 1950, the provision must be reframed in a manner that preserves financial fairness without moralistic intrusion.

Reforming maintenance law thus entails harmonising tradition with constitutional values, transforming dependence into dignity within the framework of modern Hindu law.

³³ Hindu Marriage Act 1955, s 25

³⁴ *Rajnesh v Neha & Anr* (2021) 2 SCC 324

CONCLUSION

The evolving discourse on maintenance under Hindu law reflects the broader transformation of Indian society, one that is gradually moving from patriarchal dependence to constitutional equality. While the Hindu Marriage Act 1955 sought to provide economic protection to the financially vulnerable spouse, its interpretation and application have not fully kept pace with changing social realities. The challenge lies in redefining maintenance not as an instrument of dependence but as a means of ensuring dignity, fairness, and autonomy for both partners.

Judicial precedents such as *Rajnesh v Neha* have rightly underscored the need for uniformity and gender neutrality, yet legislative intervention remains crucial to eliminate ambiguity and misuse. Maintenance should no longer be viewed through a lens of charity or morality but rather as a legal and ethical duty grounded in equality and justice.

In an era of modernity, where economic participation and social roles are rapidly evolving, Hindu maintenance laws must embody principles of constitutional morality under Articles 14 and 15 of the Constitution of India, 1950. True reform, therefore, lies in transforming maintenance from a symbol of dependence into a safeguard of dignity, balancing compassion with equality in the spirit of modern Hindu jurisprudence.